

Article 2.

Petition of Insolvent for Assignment for Creditors.

§ 23-13. Petition; schedule; inventory; affidavit.

Every insolvent debtor may present a petition in the superior court, praying that his estate may be assigned for the benefit of all his creditors, and that his person may thereafter be exempt from arrest or imprisonment on account of any judgment previously rendered or of any debts previously contracted. On presenting such petition, every insolvent shall deliver therewith a schedule containing an account of his creditors and an inventory of his estate, which inventory shall contain

- (1) A full and true account of his creditors, with the place of residence of each, if known, and the sum owing to each creditor, whether on written security, on account, or otherwise.
- (2) A full and true inventory of his estate, real and personal, with the encumbrances existing thereon, and all books, vouchers and securities relating thereto.
- (3) A full and true inventory of all property, real and personal, claimed by him as exempt from sale under execution.

He shall annex to his petition and schedule the following affidavit, which must be taken and subscribed by him before the clerk of the superior court, and must be certified by such officer:

I, _____, do swear (or affirm) that the account of my creditors, with the places of their residence, and the inventory of my estate, which are herewith delivered, are in all respects just and true; that I have not at any time or in any manner disposed of or made over any part of my estate for the future benefit of myself or my family, or in order to defraud any of my creditors; and that I have not paid, secured to be paid, or in any way compounded with any of my creditors, with a view that they, or any of them, should abstain or desist from opposing my discharge: so help me, God. (1868-9, c. 162, ss. 1, 2, 3; Code, ss. 2942, 2943, 2944; Rev., s. 1930; C.S., s. 1621.)

§ 23-14. Clerk to give notice of petition.

On receiving the petition, schedule and affidavit, the clerk of the superior court shall make an order requiring all the creditors of such insolvent to show cause before said officer, within thirty days after publication of the order, why the prayer of the petitioner should not be granted, and shall post a notice of the contents of the order at the courthouse door and three other public places in the county where the application is made for four successive weeks; or, in lieu thereof, shall publish the same for three successive weeks in any newspaper published in said county, or in an adjoining county. (1868-9, c. 162, ss. 4, 5; Code, ss. 2945, 2946; Rev., s. 1931; C.S., s. 1622.)

§ 23-15. Order of discharge and appointment of trustee.

If no creditor oppose the discharge of the insolvent, the clerk of the superior court before whom the hearing of the petition is had shall enter an order of discharge and appoint a trustee of all the estate of such insolvent. (1868-9, c. 162, s. 6; Code, s. 2947; Rev., s. 1932; C.S., s. 1623.)

§ 23-16. Terms and effect of order of discharge.

The order of discharge shall declare that the person of such insolvent shall forever thereafter be exempted from arrest or imprisonment on account of any judgment, or by reason of any debt due at the time of such order, or contracted for before that time, though payable afterwards. But

no debt, demand, judgment or decree against any insolvent, discharged under this chapter, shall be affected or impaired by such discharge, but the same shall remain valid and effectual against all the property of such insolvent acquired after his discharge and the appointment of a trustee; and the lien of any judgment or decree upon the property of such insolvent shall not be in any manner affected by such discharge. (1868-9, c. 162, s. 9; Code, s. 2950; Rev., s. 1933; C.S., s. 1624.)

§ 23-17. Suggestion of fraud by opposing creditor.

Every creditor opposing the discharge of the insolvent may suggest fraud and set forth the particulars thereof in writing, verified by his oath; but the insolvent shall not be compelled to answer the suggestions of fraud in more than one case, though as many creditors as choose may make themselves parties to the issues in such cases. (1868-9, c. 162, s. 7; Code, s. 2948; Rev., s. 1934; C.S., s. 1625.)